

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

BRIAN BURKE,

Plaintiff,  
- against -

**REPLY DECLARATION IN  
FURTHER SUPPORT OF  
MOTION TO DISMISS**

NEW YORK CITY TRANSIT AUTHORITY,

Defendant.

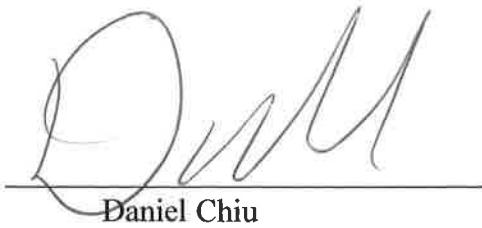
Docket No. 15 CV 1481  
(ENV)(LB)

X  
I, DANIEL CHIU, hereby declare pursuant to 28 U.S.C. § 1746 that:

1. I am an Executive Agency Counsel with the office of James B. Henly, Vice-President and General Counsel, New York City Transit Authority, attorney for defendant New York City Transit Authority. I am familiar with the matters set forth below based on a review of the case file maintained by this office and conversations with employees of defendant.
2. This reply declaration is submitted in further support of defendant's motion to dismiss.
3. Annexed hereto as Exhibit "A" is a true copy of a Right to Sue Letter, dated December 11, 2013.
4. Annexed hereto as Exhibit "B" is a true copy of a New York State Division of Human Rights Determination and Order After Investigation, dated October 4, 2013.
5. Annexed hereto as Exhibit "C" is a true copy of a New York State Division of Human Rights Verified Complaint, sworn to March 29, 2013.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: Brooklyn, New York  
August 3, 2015



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Daniel Chiu

# Exhibit A

## U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

## DISMISSAL AND NOTICE OF RIGHTS

To: Brian T. Burke  
145 East 23rd Street, Apt. 4R  
New York, NY 10010

From: New York District Office  
33 Whitehall Street  
5th Floor  
New York, NY 10004

11015 RTH  
KN

On behalf of person(s) aggrieved whose identity is  
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

16G-2013-02749

Holly M. Woodyard,  
Investigator

(212) 336-3643

## THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:

- The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.
- Your allegations did not involve a disability as defined by the Americans With Disabilities Act.
- The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.
- Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge
- The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.
- The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.
- Other (briefly state)

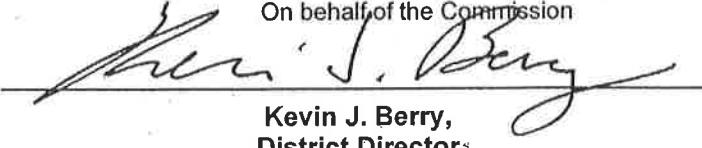
## - NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

**Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act:** This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit must be filed WITHIN 90 DAYS of your receipt of this notice; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

**Equal Pay Act (EPA):** EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.

On behalf of the Commission

  
 Kevin J. Berry,  
District Director

December 11, 2013

(Date Mailed)

Enclosures(s)

cc:

MTA NEW YORK CITY TRANSIT  
Attn: Kristen M. Nolan, Esq.  
130 Livingston Street, 12th Floor  
Brooklyn, NY 11201

# Exhibit B



ANDREW M. CUOMO  
GOVERNOR

NEW YORK STATE  
DIVISION OF HUMAN RIGHTS

NEW YORK STATE DIVISION OF  
HUMAN RIGHTS on the Complaint of

BRIAN T. BURKE,

Complainant,

v.

MTA NEW YORK CITY TRANSIT, JARIUS ODUMS,  
Respondents.

Federal Charge No. 16GB302749

DETERMINATION AND  
ORDER AFTER  
INVESTIGATION

Case No.  
10161367

On 4/9/2013, Brian T. Burke filed a verified complaint with the New York State Division of Human Rights ("Division") charging the above-named respondent with an unlawful discriminatory practice relating to employment because of sex, sexual orientation, creed, age, marital status, national origin in violation of N.Y. Exec. Law, art. 15 (Human Rights Law).

After investigation, and following opportunity for review of related information and evidence by the named parties, the Division has determined that there is NO PROBABLE CAUSE to believe that the respondents have engaged in or are engaging in the unlawful discriminatory practice complained of. This determination is based on the following:

The investigation did not support the Complainant's allegations that he was subjected to harassment by Respondent based on his sex, sexual orientation, creed, age, marital status, national origin. Complainant alleged that the harassment included overtime requests not being processed, interference while making safety related calls and being prohibited from using the refrigerator, toaster, microwave and being denied a locker. The Complainant's allegations on face are not specific and do not show the nexus between his membership in the cited protected classes and the allegedly discriminatory actions to which he was subject during his employment.

The Complainant is a single, heterosexual, White Irish American, Roman Catholic male born on 9/13/1961, has been employed with Respondent since February of 2001 as a Train Operator. The Complainant alleged that during his employment the Respondent and supervisor, Assistant Train Dispatcher (ATD) Jarius Odum has subjected him to discrimination. Respondent denied that Complainant has been subjected to discriminatory actions and states that a review of his records shows that although he has been spoken to by supervision about work performance issues; he was not issued any disciplinary notices or subjected to any adverse actions.

Age

Complainant alleged that because he is fifty-one (51) years of age (d/o/b September 13, 1961). Respondent discriminated against him. However, the Complainant failed to state specific incidents or actions that occurred to him that he believes was directly or indirectly related to his age. A request for additional information sent to Complainant on August 14, 2013, requesting specific incidents or actions by Respondent against him related to his age was responded to by Complainant. However, he still failed to articulate specific as requested. The record shows that individuals supervised by Mr. Odum ranged in age from thirty-five (35) years of age to sixty-one (61) years of age. There fore the Division cannot conclude that any alleged detrimental actions by Respondent against the Complainant were based on his age.

#### Creed

Complainant, Catholic, alleged creed discrimination and states that on February 13, 2013 after returning from Mass to receive ashes, Mr. Odum made a number of negative comments about Catholics and the Pope. Respondent states Mr. Odum denied making any comments to the Complainant after he returned from mass or to any other employee with reference to their creed. Complainant provided not witnesses to the alleged offensive comments. Respondent articulated that creed information is not maintained by them unless a specific request for an accommodation is requested. The Division notes that even if these comments were made they do not support that Complainant worked in a hostile work environment because of his creed. Complainant, when requested by the Division on August 14, 2013, to provide additional information that supports his claim of creed discrimination, he failed to do so.

The investigation did not reveal that Complainant requested a reasonable accommodation based on his creed which was denied. Nor did he provide witnesses to the alleged offensive comments.

#### Marital status

Complainant alleged marital status discrimination because he is single. The Complainant in his initial complaint or follow up documentation, failed to states detrimental specific comments, actions or incidents which he believed were related to his marital status. In a request for additional information dated August 14, 2013, Complainant failed again to address the Division's request for additional information. The record and the investigation did not support that any of the Respondent's treatment of Complainant's employment is due because he is single.

#### National Origin

Complainant alleged national origin discrimination based on him being Irish-American. The Complainant in his complaint failed to articulate how Mr. Odum's or any other Respondent employee subjected him to discriminatory actions based on his national origin. The Respondent stated that national origin information is not maintained in the records but states that Complainant based on their records never reported any complaint alleging national origin discrimination.

In a Division requested clarification from Complainant regarding how he was discriminated against because he is Irish/American, the Complainant again failed to do so.

### Sexual Orientation

Complainant alleged discrimination based on his sexual orientation. He identified himself as a heterosexual. Complainant alleged Mr. Odum made comments which involved "tea bagging" and other comments which made him believed that he and Mr. Odum were of different sexual orientations.

The investigation revealed that Complainant's belief of sexual orientation discrimination is not based on facts and does not support a prima facie complaint of discrimination based on sexual orientation. Complainant provided no additional facts in support of his allegations of sexual orientation discrimination.

### Sex

Complainant alleged discrimination based on his sex, male. The allegations state that Complainant was subjected to actions from Mr. Odum's that females supervised by him were not subjected to. Respondent denies the Complainant's allegations and state that any actions toward Complainant by Mr. Odum were based on legitimate reasons and unrelated to his sex. The investigation revealed and the record shows that Mr. Odum did not supervise any females during the relevant time period.

The evidence and documentation submitted by Complainant alleging discrimination was not sufficient to support his claims. The record shows that despite the Complainant's numerous allegations of discrimination, the Complainant has no documented disciplinary history with the Respondent. The Complainant on his own requested the Respondent that he be demoted back to his former title for reasons unrelated to any actions initiated by the Respondent. Most recently, the investigation revealed and Complainant confirmed that Complainant was promoted from Train Operator to Train Dispatcher.

The Complainant's vague, unspecified and conclusory allegations do not support that he was a victim of workplace discrimination. Based on the entire record, the Division cannot conclude that any unlawful discrimination as alleged took place.

The complaint is therefore ordered dismissed and the file is closed.

PLEASE TAKE NOTICE that any party to this proceeding may appeal this Determination to the New York State Supreme Court in the County wherein the alleged unlawful discriminatory practice took place by filing directly with such court a Notice of Petition and Petition within sixty (60) days after service of this Determination. A copy of this Notice and Petition must also be served on all parties including General Counsel, State Division of Human Rights, One Fordham Plaza, 4th Floor, Bronx, New York 10458. DO NOT FILE THE ORIGINAL NOTICE AND PETITION WITH THE STATE DIVISION OF HUMAN RIGHTS.

Your charge was also filed under Title VII of the Civil Rights Act of 1964. Your charge was also filed under the Age Discrimination in Employment Act (ADEA). Enforcement of the aforementioned law(s) is the responsibility of the U.S. Equal Employment Opportunity Commission (EEOC). You have the right to request a review by EEOC of this action. To secure review, you must request it in writing, within 15 days of your receipt of this letter, by writing to EEOC, New York District Office, 33 Whitehall Street, 5th Floor, New York, New York 10004-2112. Otherwise, EEOC will generally adopt our action in your case.

Dated: 10/4/13  
Brooklyn, New York

STATE DIVISION OF HUMAN RIGHTS

By:

  
Joyce Yearwood-Drury  
Director O.S.H.I.

# Exhibit C



NEW YORK STATE  
DIVISION OF HUMAN RIGHTS

NEW YORK STATE DIVISION OF  
HUMAN RIGHTS on the Complaint of

BRIAN T. BURKE,

Complainant,

v.

MTA NEW YORK CITY TRANSIT, "JOHN" ODOMS,  
Respondents.

VERIFIED COMPLAINT  
Pursuant to Executive Law,  
Article 15

Case No:  
**10161367**

Federal Charge No. 16GB302749

I, Brian T. Burke, residing at 145 East 23rd Street Apt 4R, New York, NY, 10010, charge the above named respondents, whose address is 130 Livingston Street, 12th Floor, Brooklyn, NY, 11201 with an unlawful discriminatory practice relating to employment in violation of Article 15 of the Executive Law of the State of New York (Human Rights Law) because of sex, sexual orientation, creed, age, marital status, national origin.

Date most recent or continuing discrimination took place is 3/25/2013.

The allegations are:

**See Attached Complaint Form**

Based on the foregoing, I charge respondents with an unlawful discriminatory practice relating to employment because of sex, sexual orientation, creed, age, marital status, national origin, in violation of the New York State Human Rights Law (Executive Law, Article 15), Section 296.

I also charge the above-named respondents with violating Title VII of the Civil Rights Act of 1964, as amended (covers race, color, creed, national origin, sex relating to employment). I also charge the above-named respondents with violating the Age Discrimination in Employment Act (ADEA) as amended (covers ages 40 years of age or older in employment). I hereby authorize SDHR to accept this verified complaint on behalf of the U.S. Equal Employment Opportunity Commission (EEOC) subject to the statutory limitations contained in the aforementioned law(s).

I.H.S.O.

APR 11 2013



New York State Division of Human Rights  
Complaint Form

RECEIVED

APR 09 2013

BROOKLYN REGIONAL OFFICE

**CONTACT INFORMATION**

RECEIVED

My contact information:

Name: Brian T Burke

2013

Address: 145 East 23rd street Apt. 4R S.H.L Apt or Floor #: 4R

New York

State: NY

Zip: 10010

**REGULATED AREAS**

I believe I was discriminated against in the area of:

- |  |  |  |
|--|--|--|
| <input checked="" type="checkbox"/> Employment   | <input type="checkbox"/> Education               | <input type="checkbox"/> Volunteer firefighting                      |
| <input type="checkbox"/> Apprentice Training   | <input type="checkbox"/> Boycotting/Blacklisting | <input type="checkbox"/> Credit                                      |
| <input type="checkbox"/> Public Accommodations<br><i>(Restaurants, stores, hotels, movie theaters amusement parks, etc.)</i> | <input type="checkbox"/> Housing                 | <input checked="" type="checkbox"/> Labor Union, Employment Agencies |
|  | <input type="checkbox"/> Commercial Space        |  |

I am filling a complaint against:

Company or Other Name: NYC Transit Authority

Address: 2 Broadway

City: New York State: NY Zip: 10004

Telephone Number: 347 643 7700  
(area code)

Individual people who discriminated against me:

Name: Odoms

Name: \_\_\_\_\_

Title: ATD

Title: \_\_\_\_\_

**DATE OF DISCRIMINATION**

The most recent act of discrimination happened on:

03/25  
month

day

2013  
year

## DOMESTIC WORKERS



*Please answer the questions on this page only if you are a domestic worker. If you are not a domestic worker, please skip this page and turn to the next page.*

The Human Rights Law protects you if you are being sexually harassed or harassed because of your gender, race, national origin, or religion AND you are employed in the home or residence of another person for the purposes of housekeeping, childcare, companionship, or any other domestic service purpose

**Do you live in your employer's home?**  Yes  No

*If yes, please be sure to fill out the information on Page 11 and provide the name of another person who does not live with you but will know how to contact you if the Division needs to reach you.*

**What did the person you are complaining against do?**

*Please check all that apply.*

- |  |  |
|--|--|
| <input type="checkbox"/> Harassed me because of my race or color | <input type="checkbox"/> Harassed me because of my national origin |
| <input type="checkbox"/> Harassed me because of my religion      | <input type="checkbox"/> Harassed me because of my gender/sex      |
| <input type="checkbox"/> Sexually harassed me                    |  |

### Other protections for Domestic Workers:

As a domestic Worker, you are also entitled to certain protections in the following areas:

- **Minimum Wage** (the lowest hourly wage under the law)
- **Day of Rest** (the amount of time off that you should have each week)
- **Paid Vacation** (the amount of time off that you should have each year)
- **Overtime Pay** (extra money that you receive for working extra hours)
- **Disability Benefits** (payments if you can't work because of illness or injuries)

If you have questions about these topics, please contact:

**New York State Department of Labor**  
(518) 457-9000  
(888) 4-NYS DOL / (888-469-7365)  
TTY/TDD (800) 662-1220  
[www.labor.ny.gov](http://www.labor.ny.gov)



When you have finished answering these questions, please turn to Page 8.

**BASIS OF DISCRIMINATION**

Please tell us why you were discriminated against by checking one or more of the boxes below.



You do not need to provide information for every type of discrimination on this list. Before you check a box, make sure you are checking it only if you believe it was a reason for the discrimination. Please look at the list on Page 1 for an explanation of each type of discrimination.

**Please note:** Some types of discrimination on this list do not apply to all of the regulated areas listed on Page 3. (For example, Conviction Record applies only to Employment and Credit complaints, and Familial Status is a basis only in Housing and Credit complaints). These exceptions are listed next to the types of discrimination below.

**I believe I was discriminated against because of my:**

<input checked="" type="checkbox"/> <b>Age</b> (Does not apply to Public Accommodations) Date of Birth: <b>09/13/1961</b>	<input type="checkbox"/> <b>Genetic Predisposition</b> (Employment only) Please specify:
<input type="checkbox"/> <b>Arrest Record</b> (Only for Employment, Licensing, and Credit) Please specify:	<input checked="" type="checkbox"/> <b>Marital Status</b> Please specify: <b>Single</b>
<input type="checkbox"/> <b>Conviction Record</b> (Employment and Credit only) Please specify:	<input type="checkbox"/> <b>Military Status:</b> Please specify:
<input checked="" type="checkbox"/> <b>Creed / Religion</b> Please specify: <b>Roman Catholic</b>	<input checked="" type="checkbox"/> <b>National Origin</b> Please specify: <b>Irish-American</b>
<input type="checkbox"/> <b>Disability</b> Please specify:	<input checked="" type="checkbox"/> <b>Race/Color or Ethnicity</b> Please specify: <b>Caucasian</b>
<input type="checkbox"/> <b>Domestic Violence Victim Status:</b> <i>(Employment only)</i> Please specify:	<input checked="" type="checkbox"/> <b>Sex</b> Please specify: <input type="checkbox"/> <b>Female</b> <input checked="" type="checkbox"/> <b>Male</b> <input type="checkbox"/> <b>Pregnancy</b> <input checked="" type="checkbox"/> <b>Sexual Harassment</b>
<input type="checkbox"/> <b>Familial Status</b> (Housing and Credit only) Please specify:	<input checked="" type="checkbox"/> <b>Sexual Orientation</b> Please specify: <b>Hetrosexual</b>
<input checked="" type="checkbox"/> <b>Retaliation</b> (if you filed a discrimination case before, or helped someone else with a discrimination case, or reported discrimination due to race, sex, or any other category listed above)	
Please specify: <b>RETALIATION FOR HELPING TO ESTES' CASE</b>	



Before you turn to the next page, please check this list to make sure that you provided information **only** for the type of discrimination that relates to your complaint.

### EMPLOYMENT DISCRIMINATION

Please answer the questions on this page only if you were discriminated against in the area of employment. If not, turn to the next page.

#### How many employees does this company have?

- a) 1-3      b) 4-14      c) 15 or more      d) 20 or more      e) Don't know

#### Are you currently working for the company?

Yes

Date of hire: 02 26 2001) What is your job title? Train Operator  
Month            day            year

No

Last day of work:                  What was your job title?                   
Month            day            year

I was not hired by the company

Date of application:                   
Month            day            year

### ACTS OF DISCRIMINATION

What did the person/company you are complaining against do? Please check all that apply.

- Refused to hire me  
 Fired me / laid me off  
 Did not call me back after a lay-off  
 Demoted me  
 Suspended me  
 Sexually harassed me  
 Harassed or intimidated me (other than sexual harassment)  
 Denied me training  
 Denied me a promotion or pay raise  
 Denied me leave time or other benefits  
 Paid me a lower salary than other workers in my same title  
 Gave me different or worse job duties than other workers in my same title  
 Denied me an accommodation for my disability  
 Denied me an accommodation for my religious practices  
 Gave me a disciplinary notice or negative performance evaluation  
 Other: BLOCKED ME FROM USING TRANSIT PROPERTY, /PERFORMING BULLETIN CHECK

## HOUSING DISCRIMINATION

Please answer the questions on this page only if you were discriminated against in the area of housing. If not, turn to the next page.

### Who discriminated against you?

- |   |   |   |
|---|---|---|
| <input type="checkbox"/> Builder          | <input type="checkbox"/> Bank or other lender | <input type="checkbox"/> Manager / Superintendent |
| <input type="checkbox"/> Owner / Landlord | <input type="checkbox"/> Salesperson          | <input type="checkbox"/> Other: _____             |
| <input type="checkbox"/> Co-op Board      | <input type="checkbox"/> Condo Association    |   |

### What kind of property was involved?

- |  |   |   |
|--|---|---|
| <input type="checkbox"/> Single-family house | <input type="checkbox"/> Mobile home      | <input type="checkbox"/> Building with 2-4 apartments       |
| <input type="checkbox"/> Two-family house    | <input type="checkbox"/> Commercial Space | <input type="checkbox"/> Building with 5 or more apartments |
| <input type="checkbox"/> Other: _____        |   |   |

Does the owner live on the property?  Yes  No

### Was this property being sold or being rented?

- Being sold  Being rented

### Address of property:

Address: \_\_\_\_\_ Apt or Floor #: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

### Are you currently living there?

- Yes  No

## ACTS OF DISCRIMINATION

### What did the person you are complaining against do? Please check all that apply.

- |   |
|---|
| <input type="checkbox"/> Refused to rent or sell to me  |
| <input type="checkbox"/> Evicted me / threatened to evict me  |
| <input type="checkbox"/> Denied me access for my disability   |
| <input type="checkbox"/> Denied me equal terms, privileges, or facilities that other tenants were given |
| <input type="checkbox"/> Discriminated against me in lending or financing                               |
| <input type="checkbox"/> Advertised in a discriminatory way   |
| <input type="checkbox"/> Harassed me based on my sex, national origin, race, disability, etc.           |
| <input type="checkbox"/> Other: _____   |

**DESCRIPTION OF DISCRIMINATION - for all complaints (Public Accommodation, Employment, Education, Housing, and all other regulated areas listed on Page 3)**

**Please tell us more about each act of discrimination that you experienced. Please include dates, names of people involved, and explain why you think it was discriminatory.  
PLEASE TYPE OR PRINT CLEARLY.**

The first act of Discrimination/Harassment by ATD Odoms occured at the beginning of the pick on December 16 or 17th 2012. I submitted overtime form for him to sign or deny. He refused to do either, the incorrect action, and I requested we call the Rail Control Center for instructions. This was refused. I was required to file grievance on my own time, which I won. The reign of sexual and other harassments began and continue through today. I was interfered with while making a safety related phone call to Kevin Harrington Local 100 V.P. of R.T.O. and told I could not Transit phones for Transit business. ATD Odoms later made a personal call to A.T.&T.. The Harassments escalated over the months, including blocking me from ever using Transit refrigerator, toaster or microwave, denied a locker, lectures on how to perform my job as Safety Rep. or Shop Steward, blocked from performing required bulletin readings, lewd, corrupt or incorrect unsolicited comments etc.. Mr. Odoms uses the required 'fitness for duty' check to further harass Complainant. This check could better be performed by senior in title and seniority Yardmaster Healy, who is there all Afternoon, not part time, like Mr. Odoms. Mr. Odoms 'deadheads' from other assignment 'off the property' instead of via portal by train or foot, as required. He lacks proper footwear, vest or flashlight, but this may constitute 'padding' of payroll or the taking of two lunches, the only time we are allowed 'off property'. The lewd comments include topics involving 'teabagging' etc.. Some of the comments are too crude to print. On Feb. 13, 2013, after being anointed with ash at Mass, I went to work, which starts at 15:32 at Concourse Yard. Mr. Odoms made a number of negative comments about Catholics, the Pope, etc.. I believe Mr. Odoms is aware that I am of a different Orientation than himself. I request that Mr. Odoms be transferred or Demoted as he appears to perform no usefull function at Concourse Yard. Admittedly, ATD's receive no training in Yard, on Information and Belief. I underwent a voluntary Demotion from TD immediately prior to harassment.

*If you need more space to write, please continue writing on a separate sheet of paper and attach it to the complaint form. PLEASE DO NOT WRITE ON THE BACK OF THIS FORM.*

### NOTARIZATION OF THE COMPLAINT

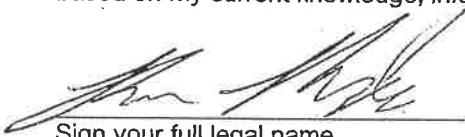
Based on the information contained in this form, I charge the above-named Respondent with an unlawful discriminatory practice, in violation of the New York State Human Rights Law.

By filing this complaint, I understand that I am also filing my employment complaint with the United States Equal Employment Opportunity Commission under the Americans With Disabilities Act (covers disability related to employment), Title VII of the Civil Rights Act of 1964, as amended (covers race, color, religion, national origin, sex relating to employment), and/or the Age Discrimination in Employment Act, as amended (covers ages 40 years of age or older in employment), or filing my housing/credit complaint with HUD under Title VIII of the Federal Fair Housing Act, as amended (covers acts of discrimination in housing),as applicable. This complaint will protect your rights under Federal Law.

I hereby authorize the New York State Division of Human Rights to accept this complaint on behalf of the U.S. Equal Employment Opportunity Commission, subject to the statutory limitations contained in the aforementioned law and/or to accept this complaint on behalf of the U.S. Department of Housing and Urban Development for review and additional filing by them, subject to the statutory limitations contained in the aforementioned law.

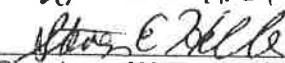
I have not filed any other civil action, nor do I have an action pending before any administrative agency, under any state or local law, based upon this same unlawful discriminatory practice.

I swear under penalty of perjury that I am the complainant herein; that I have read (or have had read to me) the foregoing complaint and know the contents of this complaint; and that the foregoing is true and correct, based on my current knowledge, information, and belief.



Sign your full legal name

Subscribed and sworn before me  
This 29<sup>th</sup> day of March, 2013

  
\_\_\_\_\_  
Signature of Notary Public

County: New York      Commission expires: 11/30/2013

STEVEN E. HILLER  
Notary Public, State of New York  
No. 01H14507658  
Qualified in New York County  
Commission Expires November 30, 2013

***Please note: Once this form is notarized and returned to the Division, it becomes a legal document and an official complaint with the Division of Human rights. After the Division accepts your complaint, this form will be sent to the company or person(s) whom you are accusing of discrimination.***

**CERTIFICATION OF SERVICE**

I, Daniel Chiu, hereby certify that:

On August 3, 2015, I served the annexed Reply Declaration in Further Support of Motion to Dismiss by depositing a true and correct copy, into the custody of United States Postal Service, in an enclosed envelope with sufficient postage for first-class mail addressed to:

BRIAN BURKE, *pro se*  
145 East 23<sup>rd</sup> Street, Apt. 4R  
New York, New York 10010

I certify under penalty of perjury that the foregoing is true and correct.

Dated: Brooklyn, New York  
August 3, 2015

  
\_\_\_\_\_  
Daniel Chiu